

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN 23 2006

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

1. RAUL S. ZAVALA
2. 1100 W. MAISON
3. Spokane, WA 99260

4. UNITED STATES DISTRICT COURT
5. EASTERN DISTRICT OF WASHINGTON

6. UNITED STATES
7. OF AMERICA
8. PLAINTIFF,
9.

CASE NUMBER:
CR-05-105-LRS-1

10. VS.

MOTION: TO DISMISS
INDICTMENT WITH
PREJUDICE

11. RAUL S. ZAVALA
12. DEFENDANT,
13.
14.

15. MOTION:
16.
17.

18. COMES NOW DEFENDANT, RAUL
19. ZAVALA AND MOVES THE COURT
20. FOR DISMISSAL OF THE INDICTMENT
21. DUE TO FALSIFIED STATEMENTS OF
22. FACT BY GOVERNMENT AGENT.
23.
24.
25.
26.
27.

FACTS

1. TFO PENCE, JOSEPH, JR. is not a
2.

3. Certified interpreter by any court.
4.

5. Verbatim Report of Proceedings
6.

7. Testimony before the Grand Jury,
8.

9. TFO JOSEPH PENCE JR. Testified
10.

11. there was a buy established with
12.

13. Mr. Zavala, a phone call that entails
14.

15. the setting up of a purchase of
16.

17. Methamphetamine, That Mr. Zavala
18.

19. actually discuss the distribution of
20.

21. Methamphetamine on the telephone,
22.

23. that there was a place and price
24.

25. placed on what was going to be sold.
26.

27.

1. Phone call transcripts, are in Spanish
2
3 and translated in English, do not entail
4
5 the alleged conversations. Due process
6
7 considerations prohibit the government
8
9 from obtaining an indictment based
10
11 on known perjured testimony. United
12
13 States v. Basurto, 497 F.2d 781, 785
14
15 (9th Cir. 1974). Permitting a defendant to
16
17 stand trial on an indictment which the
18
19 government knows is based on per-
20
21 jured testimony cannot comport with
22
23 this fastidious regard for the Honor
24
25 of the administration of Justice. United
26
27

1. States v. Basurto, 497 F.2d 781, 787 (9th-
2.
3. Cir. 1974).
4.

5. RELIEF REQUESTED
6.

7. Based on the facts listed above
8.

9. Defendant moves the court for Dismissal
10.
11. of the indictment and charges with
12.
13. prejudice.
14.

15. I declare the foregoing to be true
16.
17. and correct under the penalty of perjury,
18.
19.

20. Pursuant to the Laws of the United
21.
22. States.

23. 1-21-2006
24. DATE
25.

Raul S. Zavala
Raul S. Zavala
DEFENDANT

original
Transcribed 1

IITS
TELEPHONE CALL
CALL N-1502, #1

CASE NUMBER: RH- [REDACTED]
CALL: N-1502, #1
TYPE: TELEPHONE CALL
DATE: 04-28-2005
TRANSCRIBER: M. AMAYA
REVIEWER: N/A
PARTICIPANTS: TFO JOE PENCE = TFO Pence
CONFIDENTIAL SOURCE = CS
RAUL ZAVALA = RZ

TRANSCRIBER'S NOTATIONS:

[U/I] UNINTELLIGIBLE

[PH] PHONETIC

- Jay Mehring Monitored call, not a participant.
- no phone number
- no direction incoming, outgoing?
- * • Known only as Raul during conversation

* conversation says meet @ sisters.

SPEAKER	TRANSCRIPTION	TRANSLATION
PENCE	This is Task Force Officer Pence and Mehring calling Raul at two (2), one (1), seven (7), two (2), two (2), two (2), zero (0). It's four, oh, one (4:01), April twenty-eighth (28 th) utilizing a C-S. Okay. [WHISPERS: [U/I].]	This is Task Force Officer Pence and Mehring calling Raul at two (2), one (1), seven (7), two (2), two (2), two (2), zero (0). It's four, oh, one (4:01), April twenty-eighth (28 th) utilizing a C-S. Okay. [WHISPERS: [U/I].]
	[TÍMBRES TELEFÓNICOS]	[TELEPHONE RINGS]
ZAVALA	¿Aló?	Hello?
CS	¿Qué pasó, gallo? rooster?	What's up, studman?
ZAVALA	¿Qué pasó, vale?	What's up?
CS	Pues, aquí no mas, llamandote. ¿Qué onda?	Well, just here, calling you. What's going on?
ZAVALA	¿Qué andas haciendo?	What are you doing?
CS	Pues, aquí no mas calmadillo.	Well, just here, nothing much.
PONCHO	Oh, ¿Sí?	Oh, yeah?
CS	Ey. ¿Qué anda haciendo pues?	Yeah. Well, what are you doing?
PONCHO	¿Eh?	Huh?
CS	¿Qué andas haciendo?	What are you doing?
ZAVALA	¿Qué ando haciendo? Nada.	What am I doing? Nothing.
CS	Órale, y ¿Qué onda pues, pa' con eso? O qué? or what?	Okay, and well, what about that, or with that?
ZAVALA	O, sí, ¿Qué, qué pasó?	Oh, yeah, what happened?
CS	Pues, ¿Ya las ocupaba?	Well, did you need them?
ZAVALA	¿Ya [I/I] ahorita?	Now [U/I] now?
CS	Pues, sí, por eso te digo, una (1) hora y ya [I/I] al rato.	Well, yeah, that's what I'm telling you, one (1) hour and then [U/I].
ZAVALA	¿Ya esta listo aquel vato? o ¿Tu ya estas listo?	Is that guy ready? Or are you ready?
CS	[I/I]	[U/I]
ZAVALA	Bueno, deja, le voy y lo levanto.	Okay, let me go and get it.
CS	¿'Ónde te miro? o pues... [I/I]	Where will I see you then, or well... [U/I] where do you live

	donde vives o...	or...
ZAVALA	Ah, pues, ahorita, dejame te hablo en quinze (15) minutos pa' atrás.	Oh, well, now let me call you back in fifteen (15) minutes.
CS	Órale, acá los apartamentillos cafeses, si quieres.	Oh, well, here at the brown apartments if you want.
ZAVALA	Órale.	Okay.
CS	A los [I/I].	At the [U/I].
ZAVALA	Bye.	Bye.
CS	Órale.	Órale.
	[FÍN DE CONVERSACIÓN]	[END OF CONVERSATION]
TFO Pence	[I/I]	[U/I]
	[FÍN DE LA GRABACIÓN]	[END OF RECORDING]

IITS
TELEPHONE CALL
CALL N-1502, #2

CASE NUMBER: RH- [REDACTED]
CALL: N-1502, #2
TYPE: TELEPHONE CALL
NUMBER: 217-2220
DIRECTION: INCOMING -
DATE: 04-28-2005
TRANSCRIBER: M. AMAYA
REVIEWER: N/A
PARTICIPANTS: S.A. SEAN CUMMINGS = S/A Cummings
CONFIDENTIAL SOURCE = CS
RAUL ZAVALA = RZ

TRANSCRIBER'S NOTATIONS:

[U/I] UNINTELLIGIBLE

[PH] PHONETIC

- Jay Mehring testified he monitored a phone call, Mehring not listed as participant.
- Cummings doesn't speak or understand Spanish.
- Cummings testified he did not hear code words.
- Is there a difference between an incoming and outgoing call?

stop here

2

SPEAKER	TRANSCRIPTION	TRANSLATION
CS	¿Aló?	Hello.
ZAVALA	Ese, <u>gallo</u> , rooster.	<u>Big man</u> , or studman
CS	¿Qué pasó, <u>gallo</u> ? ¿'Ónde anda? rooster	What happened, <u>man</u> ? Where are you? rooster
ZAVALA	¿'Ónde anda?	Where are you?
CS	Aquí ando pa' la casa. Ey. Estaba pues, con las morritas.	I'm headed home. Yeah. I was, well, with the girls.
ZAVALA	[U/I]	[U/I]
CS	Órale.	Okay.
ZAVALA	...que las tengo que ir a [U/I] ¿Si me entiendes? What do I have to -	...I have to go take them to [U/I] Do you understand me?
CS	Si. ¿Y dónde quieres que te <u>enire</u> o qué? SEE	Yes. And where do you want me to <u>meet</u> you or what?
ZAVALA	[U/I]	[U/I]
CS	¿Aló?	Hello?
ZAVALA	¿Sabes dónde vive mi carnala?	Do you know where my sister lives?
CS	Eh...	Uh....
ZAVALA	¡A! Pues, [U/I], ¿eh?	Oh! Well, [U/I], huh?
CS	¿En dónde? ¿Allí por la... aló?	Where? There by... hello?
ZAVALA	¿Qué pasó?	What happened?
CS	¿Por dónde, dónde dices? ¿Dónde tu carnala?	Where, where do you say? At your sister's?
ZAVALA	Allí donde está el perrito.	There where the dog is.
CS	¿Oh, donde el, donde el [U/I]?	Oh, where the, where the [U/I]?
ZAVALA	No, el perrillo [U/I] chiquitillo.	No, the little dog [U/I] the little one.
CS	Ah, ¿Allá donde, donde tenías el Cadillal negro?	Oh, there where, where you had the black Cadillac?
ZAVALA	¿'Ónde?	Where?
CS	Donde tenías el Cadillal negro, allá 'onde fuimos de primera vez	Where you had the black Cadillac, where we went the first

	allá.	time.
ZAVALA	[I/I] donde, donde yo vivía.	[U/I] where I used to live.
CS	Órale, órale, ¿Por la... allí por la [I/I]?	Okay, okay, by the... there by [U/I].
ZAVALA	Oh, okay.	Oh, okay.
CS	¿Sí es por allí?	Is it by there?
ZAVALA	Yeah.	Yeah
CS	Órale, órale. Pero ya no vives allí, güey, en...	Okay, okay. But you don't live there anymore, man, at...?
ZAVALA	¿Eh?	Huh?
CS	¿Ya no vives allí o sí?	You live there anymore?
ZAVALA	No.	No.
CS	Oh.	Oh.
ZAVALA	[I/I]	[U/I]
CS	Allí esta todavía. Órale, orale. ¿Cómo cuánto tiempo?	It's/he's/she's still there. Okay, okay. Like how much time?
ZAVALA	En unos veinte (20) minutos estoy allí.	In some twenty (20) minutes I'll be there.
CS	Okay. Ahorita te [I/I] pues.	Okay. Soon I'll [U/I] then.
ZAVALA	Bye.	Bye.
CS	Órale.	Okay.
ZAVALA	Bye.	Bye.
CS	Bye.	Bye.
	[FÍN DE CONVERSACIÓN]	[END OF CONVERSATION]
S/A Cummings	Hold on a second. This is Special Agent Sean Cummings, D-E-A Spokane, Washington. This is a recording from Raul at two (2), one (1), seven (7), two (2), two (2), two (2), zero (0) uh, four fifteen pm (4:15pm), four-twenty (4-20), two thousand five (2005) *	
	[FÍN DE LA GRABACIÓN]	[END OF RECORDING]

4:15 4-20 2005
Time date year

IITS
TELEPHONE CALL
CALL N-1502, #3

CASE NUMBER: RH [REDACTED]
CALL: N-1502, #3
TYPE: TELEPHONE CALL
NUMBER: UNKNOWN *no number*
DIRECTION: UNKNOWN *incoming, outgoing?*
DATE: 04-28-2005
TRANSCRIBER: M. AMAYA
REVIEWER: N/A
PARTICIPANTS: TFO JOE PENCE = TFO Pence
CONFIDENTIAL SOURCE = CS
RAUL ZAVALA = RZ

TRANSCRIBER'S NOTATIONS:

[U/I] UNINTELLIGIBLE

[PH] PHONETIC

SPEAKER	TRANSCRIPTION	TRANSLATION
CS	¿Lalo? ¿Aló? ¿Aló? ¡Carajo! [I/I] no sirve, no sirve, okay. ¿Aló?	Lalo? Hello? Hello? Damn! [U/I] doesn't work, doesn't work. Hello?
ZAVALA	¿Qué hay, [I/I]?	*What's up, [U/I]?
CS	¿Qué onda? ¿Qué haciendo, <u>gallo?</u> rooster	What's going on? What are you doing <u>man?</u>
ZAVALA	[I/I]	[U/I]
CS	Aquí ando. ¿Ya llegastes pa' allá o qué?	I'm here. Have you arrived over here or what?
ZAVALA	¿Eh?	Huh?
CS	¿Ya llegastes pa' tu casa o qué?	Did you arrive at your house or what?
ZAVALA	Yeah.	Yeah.
CS	Oh.	Oh.
ZAVALA	Estamos en camino.	<u>We're</u> on our way. ^{SEVERAL} _{PEOPLE}
CS	Órale, órale.	Okay, okay.
ZAVALA	Si.	Yeah.
CS	¿Qué pasó?	What happened?
ZAVALA	¿O quieres que te la lleve a tu cantón o algo?	Or do you want me to take it to your house or something?
CS	Oh, pues, si quieres allá los apartamentillos, porque...	Oh, well, if you want over there at the apartments, because...
	[FÍN DE CONVERSACIÓN]	[END OF CONVERSATION]
	[BACKGROUND: Cell phone beep.] [SHORT PAUSE]	
CS	He...	
TFO Pence	That was a call by Raul and he is going to call back, that just occurred at ten (10) to five (5) on April twenty-eighth (28th).	
	[FÍN DE GRABACIÓN]	[END OF RECORDING]

10 to 5pm

IITS
TELEPHONE CALL
CALL N-1502, #4

CASE NUMBER: RH-[REDACTED]
CALL: N-1502, #4
TYPE: TELEPHONE CALL
NUMBER: UNKNOWN *no number*
DIRECTION: UNKNOWN *incoming, outgoing?*
DATE: 04-28-2005
TRANSCRIBER: M. AMAYA
REVIEWER: N/A
PARTICIPANTS: TFO JOE PENCE = TFO Pence
CONFIDENTIAL SOURCE = CS
RAUL ZAVALA = RZ

TRANSCRIBER'S NOTATIONS:

[U/I] UNINTELLIGIBLE

[PH] PHONETIC

SPEAKER	TRANSCRIPTION	TRANSLATION
ZAVALA	¿Gallo? ROOSTER	Man?
CS	Se cortó esa cochinada, güey.	That shit got disconnected, man.
ZAVALA	Se cortó.	It was disconnected.
CS	Ey. ¿Y qué onda? Pues.	Yeah. And well, what's up?
ZAVALA	Pues, que quieres que vaya [I/I] tú o ¿Quieres venirte [I/I] hasta acá [I/I]?	Well, do you want to go [U/I] you or do you want to go [U/I] to here [U/I]?
	[BAD PHONE RECEPTION]	
CS	Pues, caele pa' acá, si quieres, aquí o... allí voy a llegar ahorita.	Well, come over here if you want, here or... I'm going to arrive here.
ZAVALA	O... ¿'Ónde estas?	W... where are you?
CS	Allí voy a llegar a los apartamentillos allí.	I'm going to arrive there at the apartments..
	[BAD PHONE RECEPTION]	
ZAVALA	¿[I/I]?	[U/I]?
CS	Ey.	Yeah.
ZAVALA	¿Y que? ¿Ya estuvo [I/I] el mismo... con el mismo [I/I]?	And what? Were you [U/I] the same... with the same [U/I]?
CS	Sí, mon.	Yeah, man.
	[BAD PHONE RECEPTION]	
ZAVALA	¿[I/I]?	[U/I]?
CS	Estoy en la camilla dos (2).	I'm in room number two (2).
ZAVALA	¿Eh?	Yeah?
CS	Ya tengo el lu... apartamentillo dos (2) ahora.	I have the... apartment number two (2) now.
ZAVALA	Dos (2).	Two (2).
CS	Ey.	Yeah.
ZAVALA	¿[I/I] por donde vivías antes, verdad?	[U/I] where you used to live before, right?
CS	Ey.	Yeah.

ZAVALA	¿En cuánto tiempo llegas?	How long until you get here?
CS	Unos quince (15) minutos.	Some fifteen (15) minutes.
ZAVALA	¿Y no esta nadie allí?	And there is no one there?
CS	No, ahorita voy a llegar en un ratillo.	No, I'm going to arrive in a little while.
ZAVALA	Porque no quiero [I/I] estar esperando allí afuera con eso.	Because I don't want [U/I] be waiting outside with that.
CS	No de volada.	No, really quick.
ZAVALA	¿Qué paso?	What's that?
CS	Digo ahorita de volada, digo.	I said, it'll be really quick.
ZAVALA	Bueno, allí voy para allá.	Okay, I'm on my way there.
CS	Óra, pues.	Okay, then.
ZAVALA	[I/I]	[U/I]
CS	Óra, pues, bye.	Okay, then, bye.
	[FIN DE CONVERSACION]	[END OF CONVERSATION]
CS	Yeah, he was only [U/I].	
TFO Pence	That was another call to Raul at five (5) to five (5) and it's April twenty-eighth (28th)...	
	[END OF RECORDING]	

5 to 5pm

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
8 GRAND JURY

9 UNITED STATES OF AMERICA,)
10)
11 Plaintiff,)
12 vs.) Spokane, Washington
13) May 10, 2005
14 RAUL S. ZAVALA,) 9:00 a.m.
15)
16 Defendant.)

17
18 VERBATIM REPORT OF PROCEEDINGS
19 Testimony of Joseph E. Pence, Jr.
20 BEFORE THE GRAND JURY

21 APPEARANCES:

22 For United States: U.S. ATTORNEY'S OFFICE
23 By: Aine Ahmed
24 Assistant U.S. Attorney
25 920 West Riverside, Suite 300
P. O. Box 1494
Spokane, Washington 99210-1494

Official Transcriber: Ms. Terry Sublette
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Valleyford, Washington 99036

Proceedings recorded by electronic sound recording,
transcript produced by transcription service.

COPY

1

SUBLETTE AUDIO/VIDEO, et al.
P.O. Box 228, Valleyford, WA 99036-0228
(509) 928-1217 - Fax (509) 291-5762

May 10, 2005
10:14 a.m.

* * * * *

(Whereupon, Joseph E. Pence, Jr. was sworn on
oath.)

EXAMINATION

BY MR. AHMED:

Q. Officer Pence, this proposed indictment concerns
Raul Zavala. He is charged with two counts. I want to
talk about the first count first.

It charges that April, on or about April 25th
of 2005 here in the Eastern District of Washington,
Mr. Zavala did intentionally possess with the intent to
distribute 500 grams or more of a mixture or substance
containing a detectable amount of methamphetamine.

Can you tell us whether there was a buy
established on or about that date with Mr. Zavala?

A. Yes, there was.

Q. Was a confidential informant used?

A. Yes.

Q. Okay. And was that individual, did he make a phone
call to Mr. Zavala?

A. Yes, he did.

Q. Was that phone call recorded?

A. Yes, it was.

1 Q. Did it occur in English?

2 A. No, it did not.

3 Q. Did it occur in Spanish?

4 A. Yes, it did.

5 Q. Were there any agents present when that phone call
6 was made to Mr. Zavala?

7 A. Yes, there were.

8 Q. And did that phone call entail the setting up of a
9 purchase of methamphetamine?

10 A. Yes, it did.

11 Q. And that, to your knowledge, would be a felony
12 under the Controlled Substances Act?

13 A. Yes, it is.

14 Q. And did Mr. Zavala actually show up at the
15 purchase?

16 A. Yes, he did.

17 Q. Was he identified by any officers?

18 A. Yes, he was.

19 Q. Was he arrested?

20 A. Yes, he was.

21 Q. Tell the Grand Jurors a little bit about the
22 background about how the arrest took place.

23 A. During our debriefing of the CI, the CI stated
24 that -- he gave a very good description of Raul Zavala.

25 He also stated that he would be driving a newer Cadillac

1 Escalade with 24-inch rims that spun. I don't know
2 if -- they're called spinners. He arranged to meet him
3 at a specific parking lot behind a small apartment
4 complex that probably would only hold six cars, so it
5 was pretty obvious if you pulled in there why he was
6 there. This vehicle did pull in there. It was pearl
7 white with 24-inch spinning rims. At that time we took
8 into custody Raul Zavala.

9 A search of the vehicle on the driver's -- or
10 the passenger's side seat we located two pounds of
11 methamphetamine that field tested positive.

12 Q. Did anybody check Mr. Zavala's phone that that was
13 the individual the CI was talking to?

14 A. Yes, we did.

15 Q. Did the phone number match?

16 A. Yes, it did.

17 Q. Did the CI -- you said he identified him. Did he
18 give you a physical description of Mr. Zavala?

19 A. Yes, he did.

20 Q. Did that physical description match the individual
21 that you arrested?

22 A. Yes, it did.

23 Q. Including the vehicle description?

24 A. That is correct.

25 Q. And you said it was in the front passenger seat, as

1 far as the drugs were concerned?

2 A. Yes.

3 Q. Was there anybody else in the vehicle?

4 A. No, there was not.

5 Q. Did this occur in Spokane?

6 A. Yes, it did.

7 Q. Now, I want to refer to Count 2. There was a
8 question about that. Did Mr. Zavala actually discuss
9 the distribution of methamphetamine on the telephone?

10 A. Yes.

11 Q. To that effect?

12 A. Yes, he did.

13 Q. I understand that sometimes code words are used and
14 so on, but was there a location placed and a price
15 placed on what was going to be sold?

16 A. Yes, there was.

17 MR. AHMED: Are there any questions?

18 JUROR: You failed to have him identify
19 himself for the record.

20 MR. AHMED: Let me do that just in case.

21 Q. (BY MR. AHMED) Go ahead and tell the Grand Jury
22 who you are.

23 A. I'm Joseph E. Pence, Jr.

24 MR. AHMED: Okay. Thank you for catching
25 that.

1 Q. (BY MR. AHMED) And you work for the DEA; is that
2 correct?

3 A. That's correct.

4 JUROR: Tell me what -- they investigated the
5 car when it pulled into the lot. What reason did they
6 give for investigating the car or searching it?

7 A. Well, the reason was that our informant told us the
8 description of the person.

9 JUROR: Okay.

10 A. He told us exactly the type of car he would be
11 driving, specifically a pearl white Cadillac Escalade
12 with 24-inch spinning rims.

13 JUROR: I understood that.

14 MR. AHMED: At that time -- I think I can
15 answer your question, tell me if I'm wrong.

16 Q. (BY MR. AHMED) At that time when you had matched
17 the vehicle description, the individual showed up at the
18 place where your CI had established the buy, do you
19 believe you had probable cause to arrest him, Agent?

20 A. Yes, we did.

21 Q. Okay. And after arresting the individual did you
22 search the vehicle incident to arrest?

23 A. Yes, we did.

24 MR. AHMED: Are there any other questions?

25 (No further questions from the Grand Jury.)

1 MR. AHMED: Did that explain it, or do you
2 want me to follow up on that?

3 JUROR: I just think maybe somebody else with
4 a Cadillac with spinner wheels could pull in there and
5 they'd have to have a reason for why they're searching
6 the car is what I'm --

7 MR. AHMED: Well, the individual in this
8 case -- I think that's a legal question, so let me
9 answer that.

10 The individual in this case was arrested when
11 the confi- -- I think Agent Pence, and correct me if I'm
12 wrong because I don't want to testify about it. So I'm
13 just going to recap and I want you to tell me if it's
14 correct.

15 Q. (BY MR. AHMED) The CI, the confidential informant
16 made the telephone ^{RAUL} call to Mr. Zavala. A purchase was
17 set up in a specific location here in Spokane.

18 ^{RAUL} Mr. Zavala showed up in the exact vehicle that the CI
19 described, and the physical appearance that the CI
20 described. At that point ^{RAUL} Mr. Zavala was placed under
21 arrest; is that correct?

22 A. That's correct. The deal was at a specific time,
23 specific place, specific description of the person, a
24 specific description of the vehicle.

25 JUROR: With that much specificity was he --

1 was the CI not there on the premises to identify that
2 individual?

3 A. He was not.

4 JUROR: I guess the difference probably for us
5 is that there wasn't an undercover sting operation of
6 buying it and then arrested it. It was just a flat-out
7 buy -- or arrest?

8 Q. (BY MR. AHMED) It's called a buy/bust; is that
9 correct?

10 A. It would be a buy/bust, at which point we had such
11 specific information of the time and place, and there's
12 not very many -- in fact, I mean I've never seen another
13 white Cadillac Escalade with 24-inch spinning rims, that
14 it was so specific that we knew if this individual
15 showed up and we had the recorded conversations, at that
16 time, place, location that we had probable cause to stop
17 and arrest him immediately.

18 Q. Agent Pence, without going into specifics as to who
19 the CI was, can you tell us was the CI in custody at
20 this time?

21 A. Yes, he was.

22 Q. And is that one of the reasons that --

23 A. That was the reason that we were not able to bring
24 him on the street.

25 MR. AHMED: Any other questions?

1 JUROR: I have a legal question.

2 MR. AHMED: All right.

3 JUROR: In some instances when they do a
4 buy/bust or a vehicle is confiscated, and then there's
5 also the forfeiture count of the vehicle, but this go
6 around there's not.

7 MR. AHMED: A lot of cases -- well, I'll let
8 you answer this also, Officer Pence, but legally the
9 State can take it to.

10 Q. (BY MR. AHMED) In this case, Officer Pence, who
11 took the vehicle?

12 A. The State.

13 JUROR: Okay, that makes sense.

14 Q. (BY MR. AHMED) What happens to those vehicles?

15 A. They are seized and sold at an auction for the
16 proceeds to go to the Drug Unit for equipment and buy
17 money.

18 MR. AHMED: Any other questions?

19 (No further questions from the Grand Jury.)

20 Q. (BY MR. AHMED) And in a lot of cases, Officer
21 Pence, would it be true that the monies you seize go
22 back into the State coffer or to the City Police
23 Department coffer?

24 A. Yes.

25 Q. Not specifically you guys. You unit does not

1 specifically receive money; is that correct?

2 A. That's correct.

3 MR. AHMED: Any other questions, Ladies and
4 Gentlemen?

5 (No further questions from the Grand Jury.)

6 MR. AHMED: Okay, we'll step out, and thank
7 you very much.

8 (Testimony of Joseph E. Pence, Jr., concluded at
9 approximately 10:23 a.m.)

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SUBLETTE AUDIO/VIDEO, et al.
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(509) 928-1217 - Fax (509) 291-5762

1 STATE OF WASHINGTON
2 COUNTY OF SPOKANE ss: Certificate
3

4 I, Terry Sublette, Notary Public in and for the
5 State of Washington;
6

7 DO HEREBY CERTIFY:

8 That the foregoing is a true and correct
9 transcription of the electronic four-channel recording
10 of the testimony of Joseph E. Pence, Jr. on the date and
11 at the time and place as shown on page one hereto;

12 That the witness was sworn upon oath to tell the
13 truth, the whole truth and nothing but the truth, and
14 did thereafter make answers as appear herein;

15 That I am not related to any of the parties to this
16 litigation and have no interest in the outcome of said
17 matter;

18 Witness my hand and seal this 29th day of November,
19 2005.
20

21 _____
22 Notary Public in and for the State
23 of Washington, residing in Valleyford
24 My commission expires: 8/22/06
25

11

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